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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,065	09/09/2003	Nancy Lucas	CGL03/0351US01	9198
53175 7590 07/29/2009 CARGILL, INCORPORATED P.O. Box 5624 MINNEAPOLIS, MN 55440-5624				
EXAMINER				
PASCUA, JES F				
ART UNIT		PAPER NUMBER		
3782				
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07/29/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/657,065

Applicant(s)

LUCAS ET AL.

Examiner

Jes F. Pascua

Art Unit

3782

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2, 4-17, 19, 20, 22-30, 32, 42, 44, 46-54, 56, 57, 59, 61 and 63-65 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2, 4-17, 19, 20, 22-30, 32, 42, 44, 46-54, 56, 57, 59, 61 and 63-65 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the double stack of panels sealed by a distal seal coextensive with the surface area distal to the non-resealable first seam (claims 5, 15, 29 and 32) must be shown in Figs. 5-8 or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 2, 4, 5, 8-17, 19, 20, 24-30, 32, 42, 44, 48-54, 56, 57, 59, 61 and 63-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,593,229 to Warr, U.S. Patent No. 3,249,285 to Dollheimer et al. and U.S. Patent No. Des. 327,217 to Wallace.

Warr discloses the claimed invention, especially the handle comprising a patch. However, Warr does not show the handle formed from a flap including a double stack of panels formed from portions of the opposing panels folded over along a fold line transverse to the longitudinal direction and attached to themselves, wherein the opposing panels, stacks of panels or both are sealed to each other by a distal seal coextensive with the surface area distal to the non-resealable seam. Dollheimer et al. shows that it is known in the art to form handle from a flap including a double stack of panels formed from portions of the opposing panels folded over along a fold line transverse to the longitudinal direction and attached to themselves, wherein the opposing panels, stacks of panels or both are sealed to each other by a distal seal coextensive with the surface area distal to the non-resealable seam. See Fig. 2. It would have been obvious to a person having ordinary skill at the time the invention was made to form the handle of Warr from a flap including a double stack of panels formed

from portions of the opposing panels folded over along a fold line transverse to the longitudinal direction and attached to themselves, wherein the opposing panels, stacks of panels or both are sealed to each other by a distal seal coextensive with the surface area distal to the non-resealable seam, as taught by Dollheimer et al., in order to increase the carrying strength of the handle.

Furthermore, Warr and Dollheimer et al. disclose the claimed invention, as discussed above. Warr especially discloses an end of a bag including a tear seam. However, Warr does not show the opposite end of the bag including a handle and tear seam. Wallace teaches that it is known in the art of bags to provide a mirror image of one end of a bag at the bag's opposing end (Fig. 7). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide the opposing ends of the modified Warr bag with identical end structures (i.e., the modified Warr handle and tear seam), as taught by Wallace, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

4. Claims 2, 4-10, 13-15, 19, 20, 22-25, 27-29, 32, 42, 44, 46-50, 53, 54, 59, 61 and 63-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Warr, Dollheimer et al. and U.S. Patent No. 5,578,562 to Anspacher.

Warr discloses the claimed invention, especially the handle comprising a patch. However, Warr does not show the handle formed from a flap including a double stack of panels formed from portions of the opposing panels folded over along a fold line transverse to the longitudinal direction and attached to themselves, wherein the

opposing panels, stacks of panels or both are sealed to each other by a distal seal coextensive with the surface area distal to the non-resealable seam. Dollheimer et al. shows that it is known in the art to form handle from a flap including a double stack of panels formed from portions of the opposing panels folded over along a fold line transverse to the longitudinal direction and attached to themselves, wherein the opposing panels, stacks of panels or both are sealed to each other by a distal seal coextensive with the surface area distal to the non-resealable seam. See Fig. 2. It would have been obvious to a person having ordinary skill at the time the invention was made to form the handle of Warr from a flap including a double stack of panels formed from portions of the opposing panels folded over along a fold line transverse to the longitudinal direction and attached to themselves, wherein the opposing panels, stacks of panels or both are sealed to each other by a distal seal coextensive with the surface area distal to the non-resealable seam, as taught by Dollheimer et al., in order to increase the carrying strength of the handle.

Furthermore, Warr and Dollheimer et al. disclose the claimed invention, as discussed above, except for a rigid plastic handle on the end of the bag opposing the bag end with the integral handle. Anspacher teaches that it is known in the art of bags to provide a rigid plastic handle on a bag end that is opposite the bag end that includes an integral handle. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide the rigid plastic handle of Anspacher on the end opposite the end with the integral handle in the modified Warr bag, in order to facilitate manipulating the bag. Regarding claims 7, 23 and 47, the recitation

"injection-molded plastic handle" does not define over the rigid plastic handle of Anspacher. The method of forming the handle is not germane to the issue of patentability of the handle itself. Therefore, this limitation has been given little patentable weight.

Response to Arguments

5. Applicant's arguments with respect to claims 2, 4-17, 19, 20, 22-30, 32, 42, 44, 46-54, 56, 57, 59, 61 and 63-65 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 714.02 and MPEP 2163.06. The "disclosure" includes the claims, the specification and the drawings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jes F. Pascua whose telephone number is 571-272-4546. The examiner can normally be reached on Mon.-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jes F. Pascua/
Primary Examiner, Art Unit 3782